DETAILED ACTION

Preliminary Amendment

1. The preliminary amendment filed 09/28/06 cancels claims 1-24 and introduces claims 25-41.

Oath Declaration

2. The oath/declaration filed on 08/07/07 is acceptable.

Information Disclosure Statement

3. The references listed in the information disclosure statement (IDS) submitted on 08/04/08 and 09/28/06 have been considered. The submission is in compliance with the provisions of 37 CFR 1.97. Form PTO-1449 is signed and attached hereto.

Priority

4. Acknowledgment is made of applicant's claim for **foreign priority** under 35 U.S.C. 119(a)-(d) which papers have been placed of record in the file.

Specification

5. The specification is objected to because:

- The disclosure is objected to because it contains an **embedded hyperlink** and/or other form of browser-executable code (see pages 4, 6, 7, 9, 12 and 13 in the amended specification) See MPEP 608.01.

Title

- The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (6.11).

- The title "Interference limitations for retransmissions" is so broad as to not provide any description of the inventive concept to which the claims are directed.

> Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

Drawings

6. The drawings are objected to because:

> The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **501-504 in Figure 4.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112, 2nd

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims **25-41** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 25, 40 and 42 recite the limitation "...the control message restricts the amount of information to be sent in the retransmission data packet for the unsuccessfully received data packet…" which is vague with respect to how the control message restricts the amount of information. Further, what type of *information* is referred to here and how **exactly** *the amount of* information is defined. Furthermore, the examiner would like to point out that the interpretation of the claim language must be as broad as possible for the given art. If the Applicant needs a specific interpretation of the claim language, these details must be imported into the claims. These details cannot be read into the claim language when the claim language is so broad as to encompass other valid interpretations. Clarification is required.

Claims 26-39 depend from claim 24 and therefore are rejected as well.

- Claims 40 and 42 recite the phrase "operable to transmit and receive" however the phrase "operable to" implies that the invention *may or may not do* what is being cited here. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S. C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims **25-41** are rejected under 35 U.S.C. **102(e)** as being clearly anticipated by Malkamaki (U.S. PN: 7,310,336).

As per claims 25, 40 and 41:

Malkamaki substantially teaches or discloses a receiving entity, a transmitting entity and a method for controlling the amount of information in retransmission data packets transmitted from a transmitting entity to a receiving entity (see figure 1) via at least one data channel using a hybrid automatic repeat request protocol and soft combining of received data (see col. 5, lines 11-52), the method comprising transmitting a data packet from the transmitting entity to the receiving entity (see figure 1), receiving a feedback message from the receiving entity at the transmitting entity, wherein the feedback message indicates whether the data packet has been successfully received by the receiving entity, in case the feedback message indicates that the data

packet has not been received successfully, receiving a control message at the transmitting entity for the unsuccessfully received data packet (see col. 5, lines 11-52 and col. 6, lines 15-40), wherein the control message restricts the amount of information to be sent in the retransmission data packet for the unsuccessfully received data packet, and transmitting a retransmission data packet from the transmitting entity to the receiving entity comprising an amount of information indicated in said control message (see col. 7, lines 52-67 to col. 8, lines 5-38).

As per claim 26:

Malkamaki in view of the above rejection teaches wherein the control message indicates the maximum and minimum amount of information or a maximum amount of information in the retransmission data packet (see col. 7, lines 52-67 to col. 8, lines 5-38).

As per claim 27:

Malkamaki in view of the above rejection teaches wherein the transmission of the indicated amount of information requires a reduced transmission power compared to the transmission power used for the data packet (see col. 7, lines 52-67 to col. 8, lines 5-38).

As per claim 28:

Malkamaki in view of the above rejection teaches wherein the control message is transmitted in parallel or delayed to the feedback message from the receiving entity to the transmitting entity (see col. 7, lines 52-67 to col. 8, lines 5-38).

As per claim 29:

Malkamaki in view of the above rejection teaches wherein the feedback message is transmitted via an acknowledgment channel and the control message is transmitted via a scheduling related control channel (see col. 7, lines 52-67 to col. 8, lines 5-38).

As per claim 30:

Malkamaki in view of the above rejection teaches wherein the retransmission data packet is transmitted by the transmitting entity after a predetermined time span upon having received said feedback message (col. 7, lines 52-67 to col. 8, lines 5-38)..

As per claim 31:

Malkamaki in view of the above rejection teaches wherein control message indicates not to transmit the retransmission data packet after a predetermined time span upon having received said feedback message (col. 7, lines 52-67 to col. 8, lines 5-38).

As per claims 32-36:

Malkamaki in view of the above rejection teaches wherein the control message is a TFC (Transmission Format Combination) control message and soft-combining the retransmission data packet and the transmitted data packet at the receiving entity at the receiving entity to obtain a combined data packet and decoding the combined data packet at the receiving (col. 7, lines 52-67 to col. 8, lines 5-38).

As per claim 37:

Malkamaki in view of the above rejection teaches transmitting said data packet via a first data channel from the transmitting entity to the receiving entity, wherein said retransmission data packet is transmitted via a second data channel from the transmitting entity to the receiving entity (see col. 6, lines 10-31).

As per claim 38:

Malkamaki in view of the above rejection teaches wherein transmission time interval of the first data channel is smaller than the transmission time interval of the second data channel (see col. 5, lines 58-67 and col. 6, lines 1-9).

As per claim 39:

Malkamaki in view of the above rejection teaches wherein the transmitted data packet and the retransmission data packet are transmitted via at least one dedicated transport channel (see col. 10, lines 44-57).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esaw T. Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8am-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Esaw T Abraham/
Primary Examiner, Art Unit 2112
10/21/09